

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

UNITED STATES OF AMERICA,

v.

CASE NO. 8:09-CR-571-T-17MAP

JAVIER ENRIQUE CASTILLO-  
ROMERO.

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ORDER

This cause is before the Court on:

Dkt. 358      Motion Under Fed. Rule 35(b)

Defendant Javier Enrique Castillo-Romero, *pro se*, requests relief under Rule 35(b).

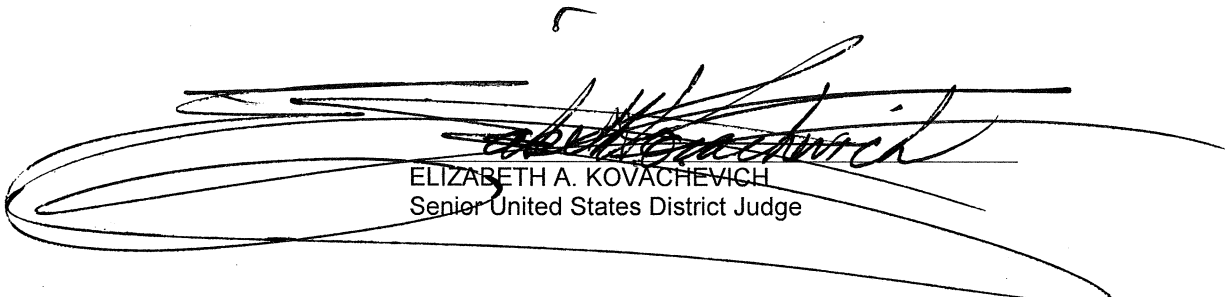
Defendant Castillo-Romero has previously filed motions seeking relief under Rule 35(b). The Court notes that at sentencing Defendant Castillo-Romero received the benefit of a motion for downward departure to recognize Defendant's substantial assistance, and that the Government has determined that Defendant's information did not rise to the level of substantial assistance following imposition of Defendant's sentence. The Court adopts and incorporates the Order denying relief (Dkt. 349).

The Government has evaluated Defendant Castillo-Romero's information and declined to file a Rule 35 Motion. Defendant Castillo has not alleged or proven that the Government acted with an unconstitutional motive in not filing a Rule 35 motion. **See *Wade v. United States***, 504 U.S. 181 (1992). Neither a claim that a defendant merely provided substantial assistance nor additional but generalized allegations of an improper motive will entitle a defendant to a remedy, or even to discovery or an evidentiary hearing. A defendant has a right to an evidentiary hearing only if a defendant makes a substantial showing of improper motive. ***Wade v. United States***, 504 U.S. 181, 184 (1992); ***United States v. Dorsey***, 554 F.3d 958, 961 (11<sup>th</sup> Cir. 2009)(citing ***United States v. Forney***, 9 F.3d 1492, 1502 (11<sup>th</sup> Cir. 1993)).

After consideration, the Court denies Defendant Castillo-Romero's Motion Under Fed. Rule 35(b). Accordingly, it is

**ORDERED** that *pro se* Defendant Javier Enrique Castillo-Romero's Motion Under Fed. Rule 35(b) is **denied**.

**DONE and ORDERED** in Chambers in Tampa, Florida on this 7<sup>th</sup> day of December, 2019.



ELIZABETH A. KOVACHEVICH  
Senior United States District Judge

Copies to:

All parties and counsel of record

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